

Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

KIMBERLY PETERSON,

Plaintiff,

vs.

NO. C04-5322 RBL

GENERAL PARTS, INC. dba GENERAL
PARTS, INC., OF WASHINGTON,
CARQUEST AUTO PARTS OF PUYALLUP
WA, INC., MICHAEL SCOTT, individually
and the martial community thereof with JANE
DOE SCOTT, AND DOES 1-10, inclusive

Defendant.

DEFENDANT MICHAEL SCOTT'S
ANSWER TO PLAINTIFF'S COMPLAINT
AND AFFIRMATIVE DEFENSES

Defendant MICHAEL SCOTT answers Plaintiff's Complaint as follows:

I. NATURE OF THE CASE

1. Answering the allegations of paragraph 1, Defendant denies those allegations.
2. Answering the allegations of paragraph 2, Defendant denies those allegations and denies that Plaintiff is entitled to any legal redress.
3. Answering the allegations of paragraph 3, Defendant denies those allegations and denies that Plaintiff is entitled to any damage award.

II. JURISDICTION AND VENUE

4. Answering the allegations of paragraph 4, Defendant admits that jurisdiction is proper pursuant to 28 U.S.C. § 1331.

5. Answering the allegations of paragraph 5, Defendant admits that supplemental jurisdiction exists pursuant to 28 U.S.C § 1367(a).

6. Answering the allegations of paragraph 6, Defendant admits that venue is proper.

III. STATUTORY PREREQUISITES

7. Answering the allegations of paragraph 7, Defendant lacks information and belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

8. Answering the allegations of paragraph 8, Defendant lacks information and belief sufficient to admit or deny the allegations.

IV. PARTIES

9. Answering the allegations of paragraph 9, Defendant lacks information and belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

10. Answering the allegations of paragraph 10, Defendant lacks information and belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

11. Answering the allegations of paragraph 11, Defendant lacks information and belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

12. Answering the allegations of paragraph 12, Defendant lacks information and belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

13. Answering the allegations of paragraph 13, Defendant lacks information and belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

1 14. Answering the allegations of paragraph 14, Defendant lacks information and
2 belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

3 15. Answering the allegations of paragraph 15, Defendant lacks information and
4 belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

5 16. Answering the allegations of paragraph 16, Defendant lacks information and
6 belief sufficient to admit or deny the allegations, and on this basis denies the allegations.

7 17. Answering the allegations of paragraph 17, Defendant admits that he is a citizen
8 of the United States but denies that he is a resident of the State of Oregon.

9 18. Answering the allegations of paragraph 18, Defendant admits that he was
10 employed as a Regional Sales Manager but denies each and every other allegation contained in
11 paragraph 18.

12 19. Answering the allegations of paragraph 19, Defendant denies those allegations.

13 20. Answering the allegations of paragraph 20, Defendant denies those allegations.

14 21. Answering the allegations of paragraph 21, Defendant lacks information and
15 belief sufficient to admit or deny the allegations, and on that basis denies the allegations.

16 22. Answering the allegations of paragraph 22, Defendant lacks information and
17 belief sufficient to admit or deny the allegations, and on that basis denies the allegations.

18 23. Answering the allegations of paragraph 23, Defendant denies that Plaintiff
19 suffered any legally cognizable injuries and therefore denies each and every allegation contained
20 in that paragraph.

21 24. Answering the allegations of paragraph 24, Defendant denies those allegations.

22 25. Answering the allegations of paragraph 25, Defendant lacks information and
23 belief sufficient to admit or deny the allegations, and on that basis denies the allegations.

26. Paragraph 26 requires no answer because it does not contain any allegations. In any case, Defendant denies any wrongdoing.

27. Answering the allegations of paragraph 27, Defendant denies those allegations.

V. GENERAL ALLEGATIONS

28. Answering the allegations of paragraph 28, Defendant admits that on or about January 23, 2002, Defendant Michael Scott was the Regional Sales Manager for Carquest and interviewed Plaintiff for an outside sales position. Except as specifically admitted, Defendant denies all other allegations of paragraph 28.

29. Answering the allegations of paragraph 29, Defendant denies those allegations.

30. Answering the allegations of paragraph 30, Defendant admits that Plaintiff was hired for the outside sales position on or about February 4, 2002. Defendant further admits that Plaintiff was the outside sales person for the Tacoma and Puyallup stores. Except as specifically admitted, Defendant denies all the other allegations of paragraph 3.

31. Answering the allegations of paragraph 31, Defendant denies those allegations.

32. Answering the allegations of paragraph 32, Defendant denies those allegations.

33. Answering the allegations of paragraph 33, Defendant denies those allegations.

34. Answering the allegations of paragraph 34, Defendant denies that Plaintiff worked in a hostile environment and lacks information and belief sufficient to admit or deny the remaining allegations.

35. Answering the allegations of paragraph 35, Defendant lacks information and belief sufficient to admit or deny the allegations, and on that basis denies the allegations.

36. Answering the allegations of paragraph 36, Defendant admits that Plaintiff was removed from the Puyallup store because of her poor working relationship with the associates and manager of the store. Except as specifically admitted, Defendant denies all other allegations contained in paragraph 36.

37. Answering the allegations of paragraph 37, Defendant admits that in February 2003, Plaintiff complained about sexual harassment, among other things. Except as specifically admitted, Defendant denies all other allegations contained in paragraph 37.

38. Answering the allegations of paragraph 38, Defendant denies those allegations.

VI. FIRST CAUSE OF ACTION

SEX DISCRIMINATION AND/OR HOSTILE WORK ENVIRONMENT VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000 (E) ET SEQ. (AGAINST GENERAL PARTS, INC., dba GENERAL PARTS, INC. of WASHINGTON, CARQUEST AUTO PARTS OF PUYALLUP WA, INC., AND DOES 1-5)

39. Defendant reaffirms and restates his responses to the allegations contained in paragraphs 1 through 38 of the Complaint as though fully set forth herein.

40. Regarding the allegations contained in paragraphs 39 through 44, these allegations are directed at defendants other than Michael Scott and therefore will not be addressed. To the extent these allegations pertain to allegations against Michael Scott, they are denied.

VII. SECOND CAUSE OF ACTION

RETALIATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000 (e) ET SEQ. (AGAINST DEFENDANTS GENERAL PARTS, INC. dba GENERAL PARTS, INC., of WASHINGTON, CARQUEST AUTO PARTS OF PUYALLUP WA, INC., and DOES 1-5)

41. Defendant reaffirms and restates his responses to the allegations contained in paragraphs 1 through 44 of the Complaint as though fully set forth herein.

42. Regarding the allegations contained in paragraphs 45 through 47, these allegations are directed at defendants other than Michael Scott and therefore will not be addressed. To the extent these allegations pertain to allegations against Michael Scott, they are denied.

VIII. THIRD CAUSE OF ACTION

SEX DISCRIMINATION AND SEXUAL HARASSMENT IN VIOLATION OF RCW 49.60 (AGAINST DEFENDANTS GENERAL PARTS, INC. dba GENERAL PARTS, INC. of WASHINGTON, CARQUEST AUTO PARTS OF PUYALLUP WA, INC., MICHAEL SCOTT, individually and the marital community thereof with JANE DOE SCOTT, and DOES 1-10)

43. Defendant reaffirms and restates his response to the allegations contained in paragraph 1 through 47 of the Complaint as though fully set forth herein.

44. Regarding the allegations contained in paragraphs 48 through 54, these allegations are directed at defendants other than Michael Scott and therefore will not be addressed. To the extent these allegations pertain to allegations against Michael Scott, they are denied.

IX. FOURTH CAUSE OF ACTION

RETALIATION IN VIOLATION RCW 49.60 (Against GENERAL PARTS, INC., dba GENERAL PARTS, INC. of WASHINGTON, CARQUEST AUTO PARTS of PUYALLUP WA, INC. MICHAEL SCOTT, individually and the marital community thereof with JANE DOE SCOTT, and DOES 1-10)

45. Defendant reaffirms and restates his responses to the allegations contained in paragraphs 1 through 54 of the Complaint as though fully set forth herein.

**NEGLIGENT SUPERVISION and/or RETENTION (Against Defendants
GENERAL PARTS, INC., dba GENERAL PARTS, INC. of WASHINGTON,
CARQUEST AUTO PARTS OF PUYALLUP WA, INC., and DOES 1-5)**

48. Regarding the allegations contained in paragraphs 60 through 74, these allegations are directed at defendants other than Michael Scott and therefore will not be addressed. To the extent these allegations pertain to allegations against Michael Scott, they are denied.

BREACH OF CONTRACT (Against Defendants GENERAL PARTS, INC., dba GENERAL PARTS, INC. of WASHINGTON, CARQUEST AUTO PARTS OF PUYALLUP WA, and DOES 1-5)

50. Regarding the allegations contained in paragraphs 75 through 76, these allegations are directed at defendants other than Michael Scott and therefore will not be addressed. To the extent these allegations pertain to allegations against Michael Scott, they are denied.

XII. PRAYER FOR RELIEF

51. Defendant denies that Plaintiff is entitled to any of the relief requested in paragraphs 1, 2, 3, and 4.

AFFIRMATIVE DEFENSES

By way of further answer to Plaintiff's Complaint and without assuming Plaintiff's burden of proof on any issue, Defendant alleges:

FIRST DEFENSE

1. Plaintiff has failed to state a claim upon which relief may be granted.

SECOND DEFENSE

2. Plaintiff has failed to mitigate her damages.

THIRD DEFENSE

3. Plaintiff's injuries and/or damages, if any, were caused by her own negligence.

FOURTH DEFENSE

4. To the degree Plaintiff's claims are based on alleged conduct that took place outside the relevant limitations period, Plaintiff's claims are barred by the statute of limitations.

FIFTH DEFENSE

5. Plaintiff's claims based on negligence are barred by the workers' compensation bar.

PRAYER FOR RELIEF

WHEREFORE, having fully answered Plaintiff's Complaint and fully set forth their Affirmative Defenses, Defendant prays for the following relief:

1. That Plaintiff's Complaint be dismissed, and Plaintiff take nothing;
2. That Defendants be awarded their attorney's fees and other costs; and
3. All other relief as the Court deems just and proper.

DATED this 9th day of December, 2004.

LAW OFFICES OF GREGORY J. MURPHY, P.S.

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Of Attorneys for Defendants Scott

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filings to the parties in the above case.

s/
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